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**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 271

HOUSE BILL 2195

AN ACT

AMENDING SECTIONS 23-1041 AND 23-1046, ARIZONA REVISED STATUTES; RELATING TO
WORKERS' COMPENSATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-1041, Arizona Revised Statutes, is amended to
3 read:

4 23-1041. Basis for computing compensation: definition

5 A. Every employee of an employer within the provisions of this chapter
6 who is injured by accident arising out of and in the course of employment, or
7 ~~his~~ THE EMPLOYEE'S dependents in the event of ~~his~~ THE EMPLOYEE'S death, shall
8 receive the compensation fixed in this chapter on the basis of ~~such~~ THE
9 employee's average monthly wage at the time of injury.

10 B. If the injured or killed employee has not been continuously
11 employed for the period of thirty days immediately preceding the injury or
12 death, the average monthly wage shall be such amount as, having regard to the
13 previous wage of the injured employee or of other employees of the same or
14 most similar class working in the same or most similar employment in the same
15 or neighboring locality, reasonably represents the monthly earning capacity
16 of the injured employee in the employment in which ~~he~~ THE INJURED EMPLOYEE is
17 working at the time of the accident.

18 C. If the employee is working under a contract by which ~~he~~ THE
19 EMPLOYEE is guaranteed an amount per diem or per month, notwithstanding the
20 contract price for such labor, the employee or ~~his~~ THE EMPLOYEE'S
21 subordinates or employees working under the terms of such contract or ~~his~~ THE
22 EMPLOYEE'S or their dependents in case of death shall be entitled to receive
23 compensation on the basis only of the guaranteed wage as set out in the
24 contract of employment, whether paid on a per diem or monthly basis, but in
25 no event shall the basis be less than the wages paid to employees for similar
26 work not under contract.

27 D. Notwithstanding any other provision of this chapter, in computing
28 the average monthly wage there shall be excluded from such computation all
29 wages or other compensation for services in excess of:

30 1. One thousand three hundred twenty-five dollars per month for
31 employees injured before January 1, 1988.

32 2. One thousand six hundred fifty dollars per month for employees
33 injured from and after December 31, 1987 but before July 1, 1989.

34 3. One thousand eight hundred dollars per month for employees injured
35 from and after June 30, 1989 but before July 1, 1991.

36 4. Two thousand one hundred dollars per month for employees injured
37 from and after June 30, 1991 but before ~~the effective date of this amendment~~
38 ~~to this section~~ AUGUST 6, 1999.

39 5. Two thousand four hundred dollars per month for employees injured
40 ~~from and~~ ON OR after ~~the effective date of this amendment to this section~~
41 AUGUST 6, 1999 BUT BEFORE JANUARY 1, 2008.

42 6. THREE THOUSAND DOLLARS PER MONTH FOR EMPLOYEES INJURED FROM AND
43 AFTER DECEMBER 31, 2007 BUT BEFORE JANUARY 1, 2009.

1 7. THREE THOUSAND SIX HUNDRED DOLLARS PER MONTH FOR EMPLOYEES INJURED
2 FROM AND AFTER DECEMBER 31, 2008 BUT BEFORE JANUARY 1, 2010.

3 8. THE AMOUNT ADOPTED BY THE COMMISSION UNDER SUBSECTION E FOR
4 EMPLOYEES INJURED ON OR AFTER JANUARY 1, 2010.

5 ~~E. Prior to a determination of the average monthly wage, compensation~~
6 ~~shall be paid on a basis of a minimum monthly wage of two hundred dollars for~~
7 ~~employees eighteen years of age or over.~~

8 ~~F. In this section "monthly wage" means the average wage paid during~~
9 ~~and over the month in which the employee is killed or injured.~~

10 E. FOR PURPOSES OF SUBSECTION D, PARAGRAPH 8, THE COMMISSION SHALL,
11 NOT LATER THAN AUGUST 1 OF EACH CALENDAR YEAR, BEGINNING AUGUST 1, 2009,
12 ADOPT AN AMOUNT THAT ADJUSTS THE AMOUNT FROM THE PRIOR YEAR TO REFLECT THE
13 ANNUAL PERCENTAGE INCREASE IN THE ARIZONA MEAN WAGE PUBLISHED BY THE
14 DEPARTMENT OF ECONOMIC SECURITY USING THE BUREAU OF LABOR STATISTICS
15 OCCUPATIONAL EMPLOYMENT STATISTICS DATA CODED FOR ALL OCCUPATIONS FOR THE
16 PRIOR CALENDAR YEAR. THE AMOUNT ADOPTED BY THE COMMISSION SHALL BE EFFECTIVE
17 FOR THE FOLLOWING CALENDAR YEAR AND SHALL APPLY TO ALL INJURIES OCCURRING
18 DURING THAT CALENDAR YEAR. IN ADOPTING THE AMOUNT UNDER THIS SUBSECTION, THE
19 COMMISSION SHALL NOT DECREASE THE AMOUNT FROM THE PRIOR YEAR OR INCREASE THE
20 AMOUNT MORE THAN FIVE PER CENT FROM THE PRIOR YEAR.

21 F. PRIOR TO A DETERMINATION OF THE AVERAGE MONTHLY WAGE, COMPENSATION
22 SHALL BE PAID ON A BASIS OF A MINIMUM MONTHLY WAGE OF TWO HUNDRED DOLLARS FOR
23 EMPLOYEES EIGHTEEN YEARS OF AGE OR OVER.

24 G. FOR THE PURPOSES OF THIS SECTION, "MONTHLY WAGE" MEANS THE AVERAGE
25 WAGE PAID DURING AND OVER THE MONTH IN WHICH THE EMPLOYEE IS KILLED OR
26 INJURED.

27 Sec. 2. Section 23-1046, Arizona Revised Statutes, is amended to read:
28 23-1046. Death benefits

29 A. In case of an injury causing death, the compensation therefor shall
30 be known as a death benefit and shall be payable in the amount, for the
31 period, and to and for the benefit of the following:

32 1. Burial expenses, not to exceed five thousand dollars, in addition
33 to the compensation.

34 2. To the surviving spouse, if there are no children, sixty-six and
35 two-thirds per cent of the average monthly wage of the deceased, to be paid
36 until such spouse's death or remarriage, with two years' compensation in one
37 sum upon remarriage. To the surviving spouse if there are surviving
38 children, thirty-five per cent of the average monthly wage of the deceased,
39 to be paid until such spouse's death or remarriage with two years'
40 compensation in one sum upon remarriage, and to the surviving children, an
41 additional thirty-one and two-thirds per cent of the average monthly wage, to
42 be divided equally among them until the age of eighteen years, until the age
43 of twenty-two years if the child is enrolled as a full-time student in any
44 accredited educational institution, or if over eighteen years and incapable
45 of self-support when the child becomes capable of self-support. When all

1 surviving children are no longer eligible for benefits, the surviving
2 spouse's benefits shall be paid as if there were no children. In the event
3 of the subsequent death or remarriage of the surviving spouse, the surviving
4 child's or children's benefits shall be computed pursuant to paragraph 3.

5 3. To a single surviving child, in the case of the subsequent death or
6 remarriage of a surviving husband or wife, or if there is no surviving
7 husband or wife, ~~twenty-five~~ SIXTY-SIX AND TWO-THIRDS per cent of such THE
8 average wages MONTHLY WAGE OF THE DECEASED, or if there is more than one
9 surviving child, ~~twenty-five~~ SIXTY-SIX AND TWO-THIRDS per cent for one child,
10 ~~and fifteen per cent for each additional child, to be divided among such~~
11 ~~children share and share alike, but not exceeding a total of sixty six and~~
12 ~~two thirds per cent of the average wage~~ TO BE DIVIDED EQUALLY AMONG THE
13 SURVIVING CHILDREN. Compensation to any such child shall cease upon death,
14 upon marriage or upon reaching the age of eighteen years, except, if over
15 eighteen years and incapable of self-support, when he becomes capable of
16 self-support, or if over eighteen years of age and enrolled as a full-time
17 student in any accredited educational institution, when the child reaches age
18 twenty-two.

19 4. To a parent, if there is no surviving husband, wife or child under
20 the age of eighteen years, if wholly dependent for support upon the deceased
21 employee at the time of his death, twenty-five per cent of the average
22 monthly wage of the deceased during dependency, with an added allowance of
23 fifteen per cent if two dependent parents survive, and, if neither parent is
24 wholly dependent, but one or both partly dependent, fifteen per cent divided
25 between them share and share alike.

26 5. To brothers or sisters under the age of eighteen years, if there is
27 no surviving husband or wife, dependent children under the age of eighteen
28 years or dependent parent, the following shall govern:

29 (a) If one of the brothers or sisters is wholly dependent upon the
30 deceased employee for support at the time of injury causing death,
31 twenty-five per cent of the average monthly wage until the age of eighteen
32 years.

33 (b) If more than one brother or sister is wholly dependent,
34 thirty-five per cent of the average monthly wage at the time of injury
35 causing death, divided among such dependents share and share alike.

36 (c) If none of the brothers or sisters is wholly dependent, but one or
37 more are partly dependent, fifteen per cent divided among such dependents
38 share and share alike.

39 B. If the deceased employee leaves dependents only partially dependent
40 upon his earnings for support at the time of the injury, the monthly
41 compensation shall be equal to such proportion of the monthly payments for
42 the benefit of persons totally dependent as the amount contributed by the
43 employee to such partial dependents bears to the average wage of the deceased
44 at the time of the injury resulting in his death. The duration of
45 compensation to partial dependents shall be fixed by the commission in

1 accordance with the facts shown, and in accordance with the provisions of
2 section 23-1047, but shall in no case exceed compensation for one hundred
3 months.

4 C. In the event of death of a dependent before expiration of the time
5 named in the award, the funeral expenses of such person, not to exceed eight
6 hundred dollars, shall be paid.

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.